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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,788	11/12/2003	John LoGuidice	BEI-0013US	7180
49584	7590	02/01/2006	EXAMINER CAZAN, LIVIU RADU	
LEE & HAYES, PLLC 421 W. RIVERSIDE AVE. SUITE 500 SPOKANE, WA 99201			ART UNIT 3729	PAPER NUMBER

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/706,788	LOGUIDICE, JOHN	
	Examiner	Art Unit	
	Livius R. Cazan	3729	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 April 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 08 January 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/12/2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
 - a. In paragraph 18, line 1, "of" should read –off–
 - b. In paragraph 18, line 3, it is believed "shim 50" should read –shim 204–
Appropriate correction is required.
2. The disclosure is also objected to because of the following informalities. The specification is replete with terms which are not full, clear, concise and exact. The specification should be revised carefully in order to be written in full, clear, concise and exact terms. More precisely, phrases such as "according to one embodiment" (paragraph 14, line 1; paragraph 15, line 2; paragraph 17, line 1; paragraph 18, line 1; paragraph 34, line 1), "in one embodiment" (paragraph 13, line 5; paragraph 16, line 1; paragraph 19, line 4; paragraph 22, line 16; paragraph 23, line 1; paragraph 31, line 1; paragraph 32, line 2; paragraph 33, line 1), and "in another embodiment" (paragraph 19, line 5; paragraph 24, line 1; paragraph 25, line 1; paragraph 27, line 1; paragraph 29, line 1;) are often used without clarification as to which drawing corresponds to the embodiments being discussed. The specification is therefore difficult to understand since one cannot correlate each embodiment to a specific drawing. Further, it is unclear as to exactly what one particular embodiment, for instance the one described on page 12, paragraph 32, would encompass.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 13-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The structural relationship between the actuating member and the clamp remover of claim 1 is unclear.

a. Regarding claim 13, as claimed, it is unclear where the force is applied with respect to the claimed features of the clamp remover and why. It is unclear whether a first or second force is indeed provided by the actuating member.

b. Regarding claim 14, it is not clear whether the interface members are indeed received within the cavity members. As claimed, the actuating member does not have to be structurally connected to the clamp remover of claim 1.

c. Regarding claim 15, no structural relationship is recited. It is unclear how the force generating member and the force transferring members are connected to each other and to the clamp remover of claim 1.

d. Regarding claims 16 and 18, no structural relationship is recited. It is unclear how the forces are provided by the actuating member and in what way they affect the operation of the clamp remover of claim 1.

e. Regarding claim 17, it is unclear what is meant by "locally controlled" and "remotely controlled."

Applicant is advised to carefully correct these deficiencies and reorganize the limitations of claims 13-18 so as to clearly and concisely point out the structural relationships discussed above (one example being a positive structural recitation, such as –wherein the first cavity member receives the second interface member–) without any ambiguities, to overcome the 35 U.S.C 112(2) rejection.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 10-13, 16-19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Riera et al. (US5253554)

a) Regarding claim 1, Riera et al. disclose the same invention as the applicant, including a first engaging member (b1 below) configured to engage a clamp, a second engaging member (b2) configured to engage a clamp, a first interface member (1c) coupled to the first engaging member (at p2), a second interface member (1d) coupled to the second engaging member (at p1).

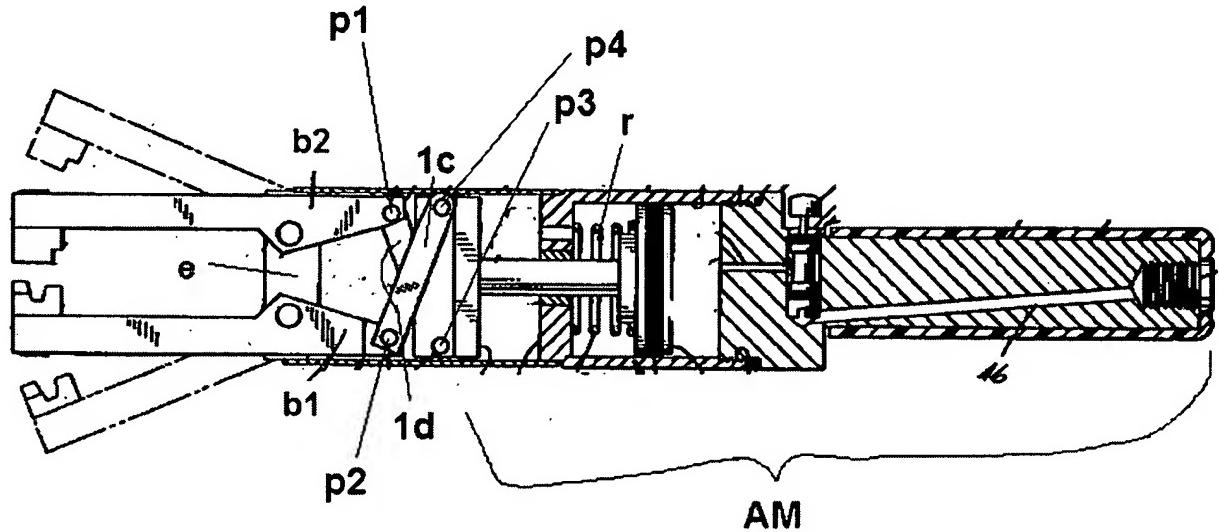
b) Regarding claim 2, the applicant fails to provide a further structural limitation of the clamp remover, only reciting a type of clamp. Since no new structure is disclosed over claim 1, it is deemed that Riera et al. disclose the limitations of claim 2. See part a above.

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- c) Regarding claim 3, Riera et al. disclose the same invention as the applicant, including a clamp remover made of metal (handle portion is constructed of aluminum covered with plastic; col. 4, Ins. 35-45; as can be seen from the hatching pattern, other parts of the tool are constructed of metal as well; see MPEP § 608.02 IX regarding drawing symbols)
- d) Regarding claims 10-12, Riera et al. disclose the same invention as the applicant, including a third interface member (e) wherein the third interface member is coupled to the first engaging member (b1) and the second engaging member (b2). Note that the third engaging member can be considered to be part of either the first engaging member (b1) (as in claim 11), or the second engaging member (b2) (as in claim 12), thereby coupling the first engaging member to the second engaging member.
- e) Regarding claim 13, Riera et al disclose the same invention as the applicant, including an actuating member (AM) configured to provide at least one of a first force and a second force.
- f) Regarding claim 16, Riera et al disclose the same invention as the applicant, including a first force applied to the first interface member and a second force applied to the second interface member by T-bar 98 in Fig. 4.
- g) Regarding claim 17, Riera et al. disclose the same invention as the applicant, including an actuating member which is locally controlled (an operator controls the actuating member by use of a push button; see abstract)

- h) Regarding claim 18, Riera et al. disclose the same invention as the applicant, including a first force and a second force in opposite directions (piston 84 pushes with a first force against spring 96, and spring 96 in turn pushes with a second force in the opposite direction)
- i) Regarding claim 19, Riera et al. disclose the same invention as the applicant, including a first engaging member (b1 below) configured to engage a clamp, a second engaging member (b2) configured to engage a clamp, an actuating member (AM) configured to provide at least one of a first force and a second force (to interface members 1c and 1d at pivot points p4 and p3, respectively), a first interface member (1c) coupled to the first engaging member (at p2) and the actuating member (at p4), a second interface member (1d) coupled to the second engaging member (at p1) and the actuating member (at p3), a reset member (r) configured to disengage at least one of the first engaging member and the second engaging member from the clamp, a first support member (p2) coupled to the first engaging member and the first interface member, and a second support member (p1) coupled to the second engaging member and the second interface member.
- j) Regarding claim 20, it is not deemed to invoke 35 U.S.C. 112 6th paragraph because the claimed limitations do not meet the 3-prong analysis. See MPEP § 2181. Riera et al. disclose the same invention as the applicant, including a first engaging means (b1 below) configured to engage a clamp, a second engaging means (b2) configured to engage a clamp, a first interface

means (1c) coupled to the first engaging means, and a second interface means (1d) coupled to the second engaging means.



7. Claims 1 and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer (US2020052).

- a) Regarding claim 1, Fischer discloses the same invention as the applicant, including a first engaging member (46) configured to engage a clamp, a second engaging member (17) configured to engage a clamp, a first interface member (30) coupled to the first engaging member, and a second interface member (15) coupled to the second engaging member.
- b) Regarding claims 4-7, Fischer et al disclose the same invention as the applicant, including a reset member (50) configured to disengage at least one of the first engaging member and the second engaging member from the clamp (Page 1, col. 2, Ins. 19-26), wherein the reset member is coupled to at least one

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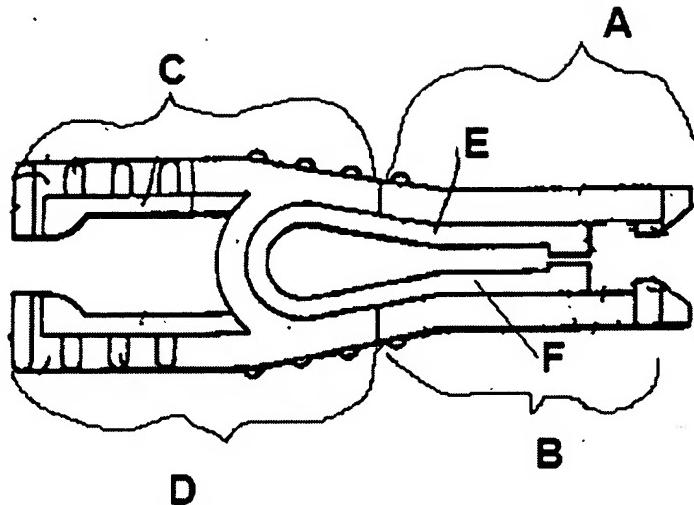
(53) of the first engaging member (at 46) and the second engaging member, and wherein the reset member is coupled to at least one (at 52) of the first interface member (30) and the second interface member)

8. Claims 1, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ito (US5666865).

a) Regarding claim 1, Ito discloses the same invention as the applicant, including a first engaging member (A below) configured to engage a clamp, a second engaging member (B) configured to engage a clamp, a first interface member (C) coupled to the first engaging member, a second interface member (D) coupled to the second engaging member.

b) Regarding claim 8, Ito discloses the same invention as the applicant, including a first support member (E below; reinforcement rib 7 in Fig. 7) coupled to the first engaging member (A) and the first interface member (3), and a second support member (F below; reinforcement rib 7 in Fig. 7) coupled to the second engaging member (B) and the second interface member (D)

c) Regarding claim 9, Ito discloses the same invention as the applicant, including at least one of the first support member and the second support member comprising an elastic material selected from the group consisting of a natural high polymer, a synthetic high polymer and a modified high polymer. (the tool is made of molded resin; col. 3, Ins. 15-20)



Allowable Subject Matter

9. Claims 14-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US5590573, US6128975, US0936980, US3111870, US 5845393, US1602704

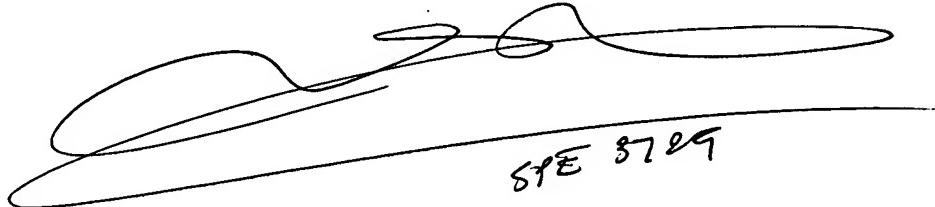
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Livius R. Cazan whose telephone number is (571) 272-8032. The examiner can normally be reached on 7:30AM-4:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571)272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LCR 01/10/2006

A handwritten signature in black ink, appearing to read "PETER VO".

PETER VO